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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/758,026

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John Clarke III

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7590

06/17/2004

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EXAMINER

JACKSON, ANDRE K

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/758,026

Applicant(s)

CLARKE ET AL.

Examiner

André K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-12,19,20 and 29-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 9-12 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Schoonover et al.

Regarding claim 1, Schoonover et al. disclose in the patent entitled "Fluid container" which has a seamless tank shell (Figure 1) having an outer surface with a fuel withdrawal assembly (46) mechanically fastened directly to the tank and a plurality of bosses (42,52) having a threaded portion and a fuel withdrawal assembly (46), which includes a threaded portion engaged with the threaded portion of one of the bosses.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this

title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3,4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoonover et al. in view of Huse.

Regarding claim 3, Schoonover et al. do not disclose where the fuel withdrawal assembly is engaged with one of the plurality of bosses by one and one-half revolutions of sealing force. However, it is considered a design choice and clearly within the purview of the skilled artisan to vary the threads on the bosses to change the revolutions of sealing force.

Regarding claim 4, Schoonover et al. do not explicitly disclose where the withdrawal outlet piece is capable of a 360° rotation when engaged with the fuel withdrawal assembly. However, Huse discloses where the withdrawal outlet piece is capable of a 360° rotation when engaged with the fuel withdrawal assembly (Column 4, line 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schoonover et al. to include where the withdrawal outlet piece is capable of a 360° rotation when engaged with the fuel withdrawal assembly. By adding this feature the container does not have to be in a particular position to have the fuel withdrawn.

Regarding claim 20, Schoonover et al. disclose where the housing can be made from molded plastic and a host of other items. High-density

polyethylene is not disclosed. However, Huse discloses where the tank shell is made from high-density polyethylene (Column 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schoonover et al. to include where the tank shell is made from high-density polyethylene. By adding this feature the container may be molded with appropriately adjusted temperature and molding times.

5. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoonover et al. in view of Huse as applied to claim 4 above and in further view of Frechette.

Regarding claim 5, Schoonover et al. do not disclose where one of the bosses engaged with the fuel withdraw assembly is substantially engaged with the interior space of the tank shell. However, Frechette discloses in the patent entitled "Hand portable fuel container with cleaning opening" where one of the bosses engaged with the fuel withdraw assembly is substantially engaged with the interior space of the tank shell (Figure 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schoonover et al. to include where one of the bosses engaged with the fuel withdraw assembly is substantially engaged with the interior space of the tank shell. By adding this feature the apparatus would be able to have an assembly closer to the tank making it less of a protrusion. Schoonover et al. do not

disclose where the withdrawal assembly extends less than 1.5 inches above the outer surface of the tank shell. However, constructing a fuel tank for a lawn mower would have the fuel withdrawal assembly extend less than 1.5 inches.

Regarding claim 6, Schoonover et al. do not disclose where the rotatable fuel withdrawal includes a split-nut housing. It is considered a design choice and well within the purview of the skilled artisan to have the rotatable fuel withdrawal comprise a split-nut housing. . Huse discloses a withdrawal that rotates without the aid of the split-nut assembly.

6. Claims 7,8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoonover et al. in view of Huse and Frechette as applied to claim 6 above and in further view of Pemberton et al.

Regarding claims 7 and 19, Schoonover et al. do not disclose where one of the bosses to which the fuel withdrawal assembly is comprised of a lower flange with a lower surface that engages the capped end to form a seal. However, Pemberton et al. discloses a "Fuel tank with a recessed fill cap" that discloses fill cap that is comprised of a lower flange with a lower surface that engages the capped end to form a seal (Figure 2). Therefore, to modify Schoonover et al. to include where one of the bosses to which the fuel withdrawal assembly is comprised of a lower flange with a lower surface that engages the capped end to form a seal to ensure a non leakage seal when closed.

Regarding claim 8, Schoonover et al. do not explicitly disclose a direct-sight fuel gauge having a threaded portion engaged with the threaded portion of one of the bosses. However, Huse discloses a direct-sight fuel gauge (54) having a threaded portion engaged with the threaded portion of one of the bosses (Figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schoonover et al. to include a direct-sight fuel gauge having a threaded portion engaged with the threaded portion of one of the bosses. By adding this feature the user would be able to monitor the fuel level within a container that is opaque.

7. Claims 9-12 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 30-34 are allowed.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to André K. Jackson whose telephone number is (571) 272-2196. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.J.

June 6, 2004

  
HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800